

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ERIC S. BOWKER,

Plaintiff,

v.

Case No. 04-CV-74825-DT

UNITED STATES OF AMERICA,

Defendant.

ORDER GRANTING IN PART PLAINTIFF'S "MOTION FOR RECONSIDERATION"

On August 19, 2005, the court issued an "Order Adopting Magistrate Judge's Report and Recommendation Granting Defendant's Motion to Dismiss." In its order, the court stated that "[n]o objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C), thus further appeal rights are waived." (8/19/05 Order at 1.)

On September 2, 2005, Plaintiff filed a motion for reconsideration of the court's August 19, 2005 order. In his motion, Plaintiff requests that the court "vacate or alter [its] final order and judgment of 19 August 2005" because he did not receive a copy of the Magistrate Judge's report and recommendation until the period for filing objections had passed. (Pl.'s Mot. at 1.) He further contends that "from 24 June 2005 until 23 August 2005, [he] did not receive any legal mail from any courts or U.S. Attorneys['] Offices, and was not . . . able to send mail." (*Id.*) He also states that he "left USP-Lewisburg on 27 June 2005 to attend resentencing hearings in Cleveland, Ohio" and was away from USP-Lewisburg until 15 August 2005." (*Id.* at ¶1.) In addition, Plaintiff avers that "while at the . . . federal prison in Youngstown, Ohio, [he] was forbidden

[from] purchas[ing] any postage stamps, paper, pens, pencils, envelopes . . . or anything else, and . . . was not given any of th[ose] items on a regular basis.” (*Id.* at ¶4.)

Based on Plaintiff’s representations to the court relating to his inability to communicate with the court and its officers for a substantial period of time during which the Magistrate Judge’s report and recommendation was filed, the court will allow Plaintiff to submit objections to the Magistrate Judge’s report and recommendation. Accordingly,

IT IS ORDERED that Plaintiff’s “Motion for Reconsideration” [Dkt. # 14] is GRANTED IN PART.

IT IS FURTHER ORDERED that Plaintiff submit his proposed objections in a legible form no later than **October 19, 2005**.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 3, 2005

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 3, 2005, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522